

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATTI JO CAHOO, KRISTEN
MENDYK, KHADIJA COLE, HYON
PAK, and MICHELLE DAVISON,
Individually and on behalf of
Similarly situated persons,

Plaintiffs,

v.
SAS INSTITUTE INC.,
FAST ENTERPRISES LLC, CSG,
GOVERNMENT SOLUTIONS, INC.,
STEPHEN GESKEY, in his individual capacity,
SHEMIN BLUNDELL, in her individual
capacity, DORIS MITCHELL, in her individual
capacity, DEBRA SINGLETON, in her
individual capacity, JULIE A. McMURTRY, in
her individual capacity; and SHARON
MOFFET-MASSEY, in her individual capacity,
Jointly and severally,

Defendants.

Case No. 2:17-cv-10657

Hon David M. Lawson
Hon. Mag. R. Steven Whalen

MOTION FOR LEAVE TO FILE ITEMS UNDER SEAL

INDEX OF DOCUMENTS PROPOSED FOR SEALING

PROPOSED DOCUMENTS

PARTIES OBJECTING

Response to FAST MSJ Ex. 4:
Nonmonetary Meeting Minutes

Response to FAST MSJ Ex. 5:
Nonmonetary Determinations
Spreadsheet

Response to FAST MSJ Ex. 6:
Nonmonetary Team Meeting Minutes
2/13/13

Response to FAST MSJ Ex. 13;
Response to State Defendant MSJ Ex. 2
Email Chain w/ Easton, et al

Response to FAST MSJ Ex. 19;
Response to CSG MSJ Ex. 21:
Response to State Defendant MSJ Ex.9
FAST Functional Overview, etc.
PowerPoint

Response to FAST MSJ Ex. 21;
Response to CSG MSJ Ex. 25:
Nonmonetary Business Rules
Spreadsheet - 9/25/12

Response to CSG MSJ Ex. 3:
Requirement Session Meeting
Minutes

Response to CSG MSJ Ex. 10:
Definition & Design Meeting
Minutes

Response to CSG MSJ Ex. 12:

Non-Monetary Consolidated Comments

Response to CSG MSJ Ex. 15:
Implementation Specification Document

Response to CSG MSJ Ex. 16:
Definition Meeting Notes Document

Response to CSG MSJ Ex. 17:
Business Rule Document

1. The public disclosure of Plaintiffs' Response to FAST's Motion for Summary Judgment Exhibit 1/ Plaintiffs' Response to State Defendants' Motion for Summary Judgment Exhibit 2 would affect the privacy interests of nonparties or third parties, particularly, a claimant.
2. The items proposed for sealing were designated as "confidential" under a protective order, ECF. 159, which does not allow filing under seal without bringing a separate motion.
3. As to Plaintiffs' Response to FAST's Motion for Summary Judgment Exhibits 4, 5, 6, 19 and 21, Plaintiffs' Response to State Defendants' Motion for Summary Judgment Exhibit 9 and Plaintiffs' Response to CSG's Motion for Summary Judgment Exhibits 3, 10, 12, 15, 16, 17, 21, and 25, Plaintiffs do not believe that these items should have been deemed confidential as they belong to the State of Michigan and would thus seem to be public documents or emails between state employees. However, Defendants previously asserted that the items contain trade secrets and/or confidential commercial

information and the Court granted a protective order pursuant to FRCP 26(c)(1)(G). Because there is a protective order in place governing the proposed item, the request to seal satisfies legal authority. “[R]ule 26(c) allows the **sealing** of court papers only 'for good cause shown' to the court that the particular **documents** justify court-imposed secrecy.” *P&G v Bankers Trust Co*, 78 F3d 219, 227 (CA 6, 1996). Since the Court already concluded that there was good cause to keep the item secret, there is good cause to seal it.

4. Plaintiffs’ Response to FAST’s Motion for Summary Judgment Exhibit 1/ Plaintiffs’ Response to State Defendants’ Motion for Summary Judgment Exhibit 2 contains private information an Unemployment Insurance claimant. That information is confidential pursuant to MCL 421.11 and 20 CFR 603(B). Because there is a protective order in place governing the proposed item, the request to seal satisfies legal authority. “[R]ule 26(c) allows the **sealing** of court papers only 'for good cause shown' to the court that the particular **documents** justify court-imposed secrecy.” *P&G v Bankers Trust Co*, 78 F3d 219, 227 (CA 6, 1996). Since the Court already concluded that there was good cause to keep the item secret, there is good cause to seal it.

5. Plaintiffs require the proposed items to support their Response to Defendants' Motions for Summary Judgment.

6. It would be inequitable to find that the items should be kept secret based on Defendants assertions, and not allow Plaintiffs to file them under seal when Plaintiffs require the items to support their motion for class certification.

7. Pursuant to LR 7.1(a), Plaintiffs sent the Defendants the proposed sealed documents, however, the parties were not able to meet and confer prior to the filing of the instant motion.

WHEREFORE, Plaintiffs request that they be permitted to file the designated items under seal, or alternately, that the Court allow Plaintiffs to file the items in the normal course.

Respectfully submitted,

/s/ Kevin S. Ernst

Kevin S. Ernst (P44223)

Attorney for Plaintiffs

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Dated: September 8, 2020

CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2020, I electronically filed the foregoing document with the Clerk of the Court using the ECF system and in the traditional manner via email to all parties of record.

Respectfully submitted,

/s/ Hannah R. Fielstra

Hannah R. Fielstra (P82101)

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Dated: September 8, 2020